

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

RUSSELL CRAVEN)	
Claimant)	
VS.)	
)	Docket No. 233,956
KOCH TRUCK LINE, INC.)	
Respondent)	
AND)	
)	
LIBERTY MUTUAL INSURANCE COMPANY)	
Insurance Carrier)	

ORDER

Respondent and its insurance carrier appealed the preliminary hearing Order dated August 7, 1998, entered by Administrative Law Judge Bruce E. Moore.

ISSUES

Judge Moore awarded claimant both medical and temporary total disability benefits. Respondent and its insurance carrier requested the Appeals Board to review the following issues:

- (1) Did claimant sustain personal injury by accident that arose out of and in the course of employment with respondent?
- (2) Did claimant provide respondent with timely notice of the accidental injury?

FINDINGS OF FACT

After reviewing the record compiled to date, the Appeals Board finds:

- (1) Russell Craven is an over-the-road truck driver and claims that while working for Koch Truck Line, Inc., he injured his neck and right upper extremity in a series of accidents that he sustained through April 28, 1998.

(2) Around December 1997 or January 1998, Mr. Craven began noticing tingling and numbness in his right arm and shoulder. As he continued to work for Koch, his symptoms became more frequent.

(3) In April 1998, Mr. Craven had x-rays and an MRI, which indicated he had a herniated cervical disc. On April 13, 1998, after reviewing the x-ray results with his physician, Mr. Craven notified Koch that he had sustained a work-related injury. Before learning of the x-ray results, Mr. Craven believed his symptoms were related to either heart or blood pressure problems.

(4) Despite learning of the herniated disc, Mr. Craven continued to work for Koch until April 28, 1998, when he was given medical restrictions against working.

(5) Although he did not experience a single traumatic event, Mr. Craven believes he herniated his disc while working for Koch because of the strenuous nature of some of his job duties. Additionally, Mr. Craven could not identify any strenuous activity that he had performed off the job as he paid his nieces and nephews to clean his house and do his yard work.

(6) Neurosurgeon Paul S. Stein, M.D., wrote Mr. Craven's attorney on July 20, 1998. That letter indicates the doctor believes that Mr. Craven's work very likely aggravated his neck condition and significantly contributed to his symptoms.

(7) The Appeals Board agrees with Judge Moore that it is more probably true than not true that Mr. Craven either injured or aggravated his neck while working for Koch Truck Line and that the accidental injury arose out of and in the course of his employment.

CONCLUSIONS OF LAW

The preliminary hearing Order should be affirmed.

(1) As indicated above, Mr. Craven has established that he sustained personal injury by accident arising out of and in the course of his employment.

(2) Mr. Craven satisfied the requirement of K.S.A. 44-520 as he gave Koch notice of the accidental injury in mid-April 1998. That notice was timely as it was given during the period that Mr. Craven was sustaining the micro-traumas to his neck, which continued through his last day of work on April 28, 1998.

WHEREFORE, the Appeals Board affirms the preliminary hearing Order dated August 7, 1998, entered by Administrative Law Judge Bruce E. Moore.

IT IS SO ORDERED.

Dated this ____ day of September 1998.

BOARD MEMBER

c: Richard A. Boeckman, Great Bend, KS
Anton C. Andersen, Kansas City, KS
Bruce E. Moore, Administrative Law Judge
Philip S. Harness, Director